IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITIONS NO. 3 AND 26 OF 2006.

WRIT PETITION NO. 3 OF 2006.

Miss Geeta Shantilal Banastarkar,
major, resident of House No.E-407,
31st January Road, Mala,
Panaji, Goa. .... Petitioner.

Versus

State of Goa
and 7 Others. .... Respondents.

Smt. A.A. Agni, Advocate for the Petitioner.

Shri A.D. Bhobe, Advocate for the Respondents No.3 to 5.

Shri J. Godinho, Advocate for the Respondent No.6.

Shri N.N. Sardessai, Advocate for the Respondent No.7.

WRIT PETITION NO. 26 OF 2006.

Shri Mukund M. Kunkolkar,
Bicholim, Goa. ..... Petitioner.

Versus

The State of Goa
and 6 Others. ..... Respondents.

Shri P.A. Kohlkar, Advocate for the Petitioner.

Shri S.S. Kantak, Advocate General with Ms. R. Chodankar, Addl. Government Advocate for the State/Respondents.

CORAM: R.M.S. KHANDEPARKAR &
N. A. BRITTO, JJ.

DATE: 27th FEBRUARY, 2006.

P.C. :

Heard.

2. Common questions of law and facts arise in both these petitions for they were heard together and are being disposed of by this common order.

3. The sole grievance of the petitioners in these petitions relate to failure on the part of the respondents to give due credence to the qualification gained by the petitioners having undergone training in terms of the Apprentices Act, 1961. Placing reliance in the decision of the Apex Court in the matter of ***U.P. State Road Transport Corporation and another v. U.P. Parivahan Nigam Shishukhs Berozgar Sangh and others reported in A.I.R. 1995 S.C. 1115 = (1995) 2 SCC 1,*** it was sought to be contended that the trained apprentices ought to have been given preference for direct recruitment and the same having not been given even though the petitioners are trained apprentices, the respondents have acted in contravention of the law laid down by the Apex Court.

4. The learned Advocate General on the other hand drawing attention to a

later Judgment of the Apex Court in ***U.P. Rajya Vidyut Parishad Apprentice Welfare Association and another v. State of U.P. And others*** reported in **(2000) 5 SCC 438** submitted that there has been no fault on the part of the respondents in any manner while selecting candidates and the experience gained by the petitioners was not ignored in any manner. Since the petitioners could not qualify themselves in the examination process conducted for selection, they were not able to secure a place in the Selection List. He further submitted that the preference to trained apprentices is available in terms of the Supreme Court judgment, subject to other things being equal. Since the performance of the petitioners was not up to the mark in the examination process conducted for selection, there has been due compliance of the law laid down by the Apex Court.

5. There is no grievance on the part of the petitioners that there was any improper exercise of powers on the part of the authorities in the course of the examination conducted for selection to all the candidates. The only grievance relates to the fact that the petitioners, inspite of being trained apprentices, were not given preference. Once it is not in dispute that the petitioners were given due opportunity to appear for examination conducted for the purpose of selection and after considering the merits of the candidates during such examination, the

candidates have been selected, it cannot be said that there is failure on the part of the respondents to comply with the law laid down by the Apex Court either in U.P. State Road Transport's case or in U.P. Rajya Vidyut Parishad's case. In fact, the latter judgment clearly clarified that:-

> " The apprentices have to go through the procedure of examination/interview and that they are however entitled to the benefits of Entries (1) to (4) laid down in Transport Corpn. Case. "

6. The decision in the Transport Corporation case clearly speak of "other things being equal", a trained apprentice should be given preference over direct recruits. It is not the case of the petitioners that there has been recruitment without following the procedure prescribed for the purpose of selection nor it is the case of the petitioners that they were not considered at all in the process of selection. The authorities having considered the petitioners in accordance with the provisions of law and bearing in mind the law laid down by the Apex Court, no fault can be found with the selection process in relation to the petitioners. Hence there is no case for interference in writ jurisdiction.

7. Hence the Writ Petitions are rejected. Interim relief stand vacated.

R.M.S. KHANDEPARKAR, J.

N. A. BRITTO, J.

sl.